

1983 S.C. Op. Atty. Gen. 26 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-13, 1983 WL 142684

Office of the Attorney General

State of South Carolina

Opinion No. 83-13

April 28, 1983

***1 SUBJECT: Education, Higher**

South Carolina residents who are employees of out-of-state colleges and universities may serve as members of the Commission on Higher Education.

To: The Honorable Richard W. Riley
Governor

QUESTION:

May an employee of an out-of-state college or university serve as a member of the Commission on Higher Education?

OPINION:

[Section 59–103–10 of the Code of Laws of South Carolina \(1976\)](#), as amended, provides that ‘[n]o member [of the Commission on Higher Education] shall be an employee or member of a governing body of a public or private institution of higher learning’. It contains no express direction as to whether this restriction applies only to in-state colleges and universities.

[Section 59–103–5 of the Code](#), as amended, defines ‘public institutions of higher education’ as meaning ‘. . . state supported education in the post-secondary field.’ The reference to ‘state-supported’ indicates that the term applies only to South Carolina Schools. This limitation is further indicated by numerous references to ‘public institutions’ and ‘state-supported institutions’ in provisions outlining the authority of the Commission with respect to these institutions. See e.g. § 59–103–35. Because the Commission obviously has no jurisdiction over public institutions in other states, these grants of authority must apply only to South Carolina institutions. Because the law indicates no intent to give the term ‘public institution of higher learning’ a different scope in the employment restriction, this restriction must be limited to in-state schools also.

These same conclusions about employment should apply to employees of ‘private institutions of higher learning.’ This term is not defined, but the only difference in wording between it and ‘public institutions of higher learning’ is the substitution of the word ‘private’ for ‘public’. Thus, because ‘public institutions’ include only ones in this state, the term ‘private institutions’ should be limited only to South Carolina colleges and universities. Therefore, a South Carolina resident who is an employee of a public or private border state college may serve on the Commission; however, if a matter came before the Commission which could affect his institution, to avoid a conflict of interest, he should abstain from the discussion and voting on that business. See § 8–13–460 of the Code, as amended.

T. Travis Medlock
Attorney General

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